

Absent—Excused.

Albritton.	Rountree.
Chastain.	Snelgrove.
Giles.	Storey.
Johnson of Smith	Veatch.
Kinnear.	Westbrook.
McKean.	Wiggs.
Minor.	Williams
Reid.	of Hardin.

Mr. Hardy and Mr. Tillotson raised the point of order that there was not a quorum present.

The Speaker sustained the point of order.

Question then recurring on the motion by Mr. Long of Wichita, it prevailed, and the House accordingly, at 5:30 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following committees have today filed favorable reports on bills, as follows:

Agriculture: House bill No. 6.

Conservation and Reclamation: House bill No. 42.

Judiciary: House bill No. 25.

The following committee has filed adverse report on bills, as follows:

Revenue and Taxation: House bill No. 43.

NINTH DAY.

(Tuesday, March 4, 1930.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and the following members were present:

Mr. Speaker.	Chastain.
Acker.	Coltrin.
Ackerman.	Conway.
Adkins.	Cox of Lamar.
Albritton.	Cox of Limestone.
Allred.	Davis.
Anderson.	DeWolfe.
Baker.	Dunlap.
Barnett.	Duvall.
Bateman.	Enderby.
Bond.	Farrar.
Bounds.	Finn.
Bradley.	Finlay.
Brice.	Forbes.
Brooks.	Gates.
Carpenter.	Gilbert.

Giles.	Negley.
Graves	Nicholson.
of Williamson.	Olsen.
Graves of Erath.	Palmer.
Hardy.	Patterson.
Harding.	Pavlica.
Harman.	Petsch.
Harper.	Pool.
Harrison.	Pope of Jones.
Hines.	Pope of Nueces.
Holder.	Purl.
Hopkins.	Quinn.
Hornaday.	Ray.
Hubbard.	Reader.
Jenkins.	Renfro.
Johnson	Richardson.
of Dallam.	Riley.
Johnson	Rogers.
of Dimmit.	Sanders.
Johnson of Scurry.	Savage.
Jones.	Shaver.
Justiss.	Shelton.
Keeton.	Sherrill.
Keller.	Simmons.
Kemble.	Sinks.
Kennedy.	Snelgrove.
Kenyon.	Speck.
Kincaid.	Stephens.
King.	Stevenson.
Land.	Tarwater.
Lee.	Terrell.
Lemens.	Tillotson.
Long of Houston.	Turner.
Long of Wichita.	Van Zandt.
Loy.	Waddell.
Magee.	Wallace.
Mankin.	Walters.
Marks.	Warwick.
Martin.	Webb.
Mauritz.	West.
Maynard.	Westbrook.
McDonald.	Wiggs.
McGill.	Williams
Mehl.	of Sabine.
Metcalfe.	Williams
Moore.	of Travis.
Morse.	Woodruff.
Murphy.	Young.

Absent.

Avis.	Mosely.
Baldwin.	Mullally.
Beck.	O'Neill.
Eickenroht.	Prendergast.
Hogg.	Thompson.
McCombs.	Veatch.
Montgomery.	

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

A quorum was announced present.
Prayer was offered by Rev. J. C. Mitchell, Chaplain.

LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of important business:

Mr. Anderson and Mr. Kayton for yesterday and today, on motion of Mr. Reader.

Mr. Finn for today, on motion of Mr. Woodruff.

Mr. Williams of Hardin for today, on motion of Mr. Woodruff.

Mr. Storey for today, on motion of Mr. Brooks.

Mr. Rountree for today, on motion of Mr. Metcalfe.

Mr. Gates for yesterday, on motion of Mr. Williams of Travis.

The following members were granted leaves of absence on account of sickness:

Mr. Hefley for today, on motion of Mr. Justiss.

Mr. Fuchs for today, on motion of Mr. Shelton.

Mr. Minor for today, on motion of Mr. Sanders.

Mr. Heaton for today, on motion of Mr. Van Zandt.

Mr. Johnson of Smith for today, on motion of Mr. Enderby.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Chastain:

H. B. No. 74, A bill to be entitled "An Act amending Chapter 46, Acts Forty-first Legislature, Second Called Session, by adding thereto a section to be known as Section 1-a, providing that where a city has defaulted in the payment of its obligations, and an application for a receiver has been made, that if upon a hearing of the application for a receiver the court find that at the time of the default made in the payment of the city's obligations it levied the highest rate of taxation allowed by the Constitution and laws of the State, and that it placed all taxable property at its full valuation and applied the funds derived from taxation upon the reasonable and necessary operating expenses of the city, and upon the liquidation of the bonds and outstanding indebtedness of the city, and that at the time of the

application for a receiver the tax rate of the city was fixed at the highest rate allowed by the Constitution and laws of the State, and that all property subject to taxation was assessed at its full face value, and that the funds derived therefrom were applied properly to the reasonable and necessary operating expenses of the city and to the payment and liquidation of the bonds and outstanding indebtedness of the city no receiver shall be appointed."

Referred to Committee on Municipal and Private Corporations.

By Mr. Morse, Mr. Kemble and Mr. Purl:

H. B. No. 75, A bill to be entitled "An Act to amend Chapter 5, Title 115, of the Revised Statutes of 1925, by adding thereto Section 6662a, providing that all ordinances of cities, towns or villages levying assessments against property for the paving, straightening, widening, opening, extending, grading, raising, lowering or improving streets, or levying assessments for public improvements of any kind or character, be filed for record in the office of the county clerk of the county in which any such city, town or village is located before constituting liens against any such real property as against purchasers or mortgagees for valuable considerations, and declaring an emergency."

Referred to Committee on State Affairs.

By Mr. Kemble, Mr. Morse and Mr. Purl:

H. B. No. 76, A bill to be entitled "An Act to provide for certificates to be issued by the collector of taxes of the State, or of any political subdivision in the State, showing payment of taxes, and that same shall be conclusive evidence of such payment as against the tax collector and his bondsmen, and providing a fee for each certificate."

Referred to Committee on State Affairs.

By Mr. Holder, Mr. Keller, Mr. Savage, Mr. Farrar and Mr. McDonald:

H. B. No. 77, A bill to be entitled "An Act legalizing, approving and validating improvement bonds of levee improvement districts created under authority of Section 59, Article 16, Constitution, and levy of taxes in payment thereof, where such bonds have been approved by the Attorney General, registered by the State Comptroller, and thereafter sold and delivered, and declaring an emergency."

Referred to Committee on Conservation and Reclamation.

By Mr. Bond:

H. B. No. 78, A bill to be entitled "An Act authorizing juries to be drawn, selected and empaneled in felony cases in counties other than the county where the case is pending where a jury cannot be secured alike fair and impartial in such county; authorizing the district judge to have juries to be drawn, selected and empaneled; authorizing the accused to be present when a jury is drawn and empaneled and waive his presence when same is drawn; authorizing the per diem and traveling expenses of the sheriff and jurors when ordered, and providing for the proper care and expenses of such jurors; repealing all laws in conflict, and declaring an emergency."

Referred to Committee on Judiciary.

By Mr. Gilbert:

H. B. No. 79, A bill to be entitled "An Act to amend Section 10a of Chapter 88, of the Acts of the Second Called Session of the Forty-first Legislature of Texas, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Mr. Chastain:

H. B. No. 80, A bill to be entitled "An Act to amend Article 3133 of the Revised Civil Statutes of Texas for 1925, and declaring an emergency."

Referred to Committee on Privileges, Suffrage and Elections.

By Mr. Hubbard and Mr. Van Zandt:

H. B. No. 81, A bill to be entitled "An Act amending Section 1 of Senate bill No. 26, Acts of the Fourth Called Session of the Forty-first Legislature, with reference to salaries of county judges and county commissioners, and declaring an emergency."

Referred to Committee on Judiciary.

By Mr. Stevenson:

H. B. No. 82, A bill to be entitled "An Act providing that it shall be unlawful for any person to take any deer of this State whose antlers contain less than seven prongs; providing a penalty; repealing all laws in conflict, and declaring an emergency."

Referred to Committee on Game and Fisheries.

By Mr. Pool, Mr. Hubbard and Mr. Harrison:

H. B. No. 83, A bill to be entitled

"An Act providing for the temporary registration or visiting privileges in this State of vehicles owned by citizens of another State or country and duly registered under the laws of said State or country for the current year; prescribing restrictions under which such vehicle may be operated; prescribing penalties for any violations hereof; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Mr. Hornaday:

H. B. No. 84, A bill to be entitled "An Act providing a method how lands forming part of an irrigation district, water improvement district, water control and improvement district, or of any conservation or reclamation district, either or both, or of any drainage or levee district, which now or which may subsequently be incorporated, made part of and annexed to an incorporated city, may be taken out and excluded from such district or districts, so as to thereafter relieve said lands from any other taxes, charges or assessments in such district or districts, except their proportionate part of the bonded indebtedness existing against said district or districts at the time they are incorporated and made part of said incorporated city, and declaring an emergency."

Referred to Committee on Conservation and Reclamation.

By Mr. Hines:

H. B. No. 85, A bill to be entitled "An Act to amend Chapter 251, General and Special Laws, Forty-first Legislature, Regular Session, pertaining to rural supervisors for schools in certain counties, and declaring an emergency."

Referred to Committee on Education.

By Mr. Brooks, Mr. Finlay and Mr. Sanders:

H. B. No. 86, A bill to be entitled "An Act amending Chapter 221, Regular Session of the Forty-first Legislature, regulating the taking and sale of the pelts of fur-bearing animals; providing for an open season for taking such pelts; providing for a trapper's license; providing for a tax on the pelts of fur-bearing animals taken for the purpose of sales, and declaring an emergency."

Referred to Committee on Game and Fisheries.

BILLS ORDERED NOT PRINTED.

On motion of Mr. Mehl, House bill No. 59 was ordered not printed.

On motion of Mr. Walters, House bill No. 20 was ordered not printed.

On motion of Mrs. Moore, Senate bill No. 18 was ordered not printed.

REQUESTING THE ESTABLISHMENT OF CERTAIN EDUCATIONAL INSTITUTION IN TEXAS.

Mr. Justiss offered the following resolution:

H. C. R. No. 5, Requesting Henry Ford to establish educational institution in Texas.

Whereas, The Hon. Henry Ford has announced that he is going to spend several millions of dollars in advancement of education; and

Whereas, A great field is already open for the continued advancement of the high school graduates of the State and Odd Fellows Homes, so they may prosecute their education further than their high school and prepare themselves for some useful avocation through life. When these girls and boys now graduate from the high school they are generally without a home or job and not able to continue their education; therefore, be it

Resolved by the House of Representatives of the State of Texas, the Senate concurring, That we ask the Hon. Henry Ford to look over the field near these two homes with a view of establishing an industrial educational plant in that locality, or any educational plant that he may desire to establish.

The resolution was read second time and was adopted.

RELATIVE TO POLICY IN REGARD TO LAND INVOLVED IN OKLAHOMA BOUNDARY CONTROVERSY.

Mr. Young offered the following resolution:

H. C. R. No. 7, Relative to Oklahoma-Texas boundary line.

Whereas, It seems very certain that Texas will soon obtain jurisdiction over a strip of land along the eastern boundary of the Texas Panhandle, heretofore controlled by Oklahoma; and

Whereas, The State of Oklahoma has been negotiating with the State of Texas for the purchase of this strip of land, contending that the reason they want to purchase such land is to protect the property rights of the good-faith title holders of such land, indirectly inferring that should this land be given to the jurisdiction of Texas

no consideration would be given to such title holders; and

Whereas, Such inference has been carried to the people whose rights are affected that such is a fact, arousing in their minds a feeling of insecurity and fear for the property which they bought in good faith; therefore, be it

Resolved by the House of Representatives of the State of Texas, the Senate concurring, That assurance be given the good-faith title holders of such land that the Legislature will consider their rights, consistent with the laws of the State, when a disposition of the land is authorized by the Legislature, and that until the final decree has been entered by the Supreme Court of the United States and the land formally becomes a part of this State, a definite policy cannot be outlined with respect to this land; and

Resolved, further, That a copy of this resolution be sent to each of the county judges in Childress, Collingsworth, Wheeler, Hemphill and Lipscomb counties with the request that they give publicity to it so that people having property rights affected by the transfer of this body of land will become acquainted with the legislative intent upon this matter.

Signed — Young, Land, Johnson of Dallam.

The resolution was read second time.

Mr. Purl moved that the resolution be referred to the Committee on Public Lands and Buildings.

Mr. Young moved to table the motion by Mr. Purl.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—80.

Mr. Speaker.	Gilbert.
Baker.	Giles.
Barnett.	Graves
Bateman.	of Williamson.
Bond.	Graves of Frath.
Bounds.	Hardy.
Carpenter.	Harper.
Chastain.	Harrison.
Coltrin.	Hines.
Conway.	Johnson
Cox of Lamar.	of Dallam.
Cox of Limestone.	Johnson of Scurry.
DeWolfe.	Jones.
Dunlap.	Keller.
Enderby.	Kincaid.
Eickenrecht.	King.
Finn.	Land.
Finlay.	Lee.
Forbes.	Long of Houston.
Gates.	Long of Wichita.

Loy.	Shaver.
Mankin.	Sherrill.
Marks.	Sinks.
Mauritz.	Snelgrove.
Maynard.	Speck.
McGill.	Stephens.
Mehl.	Tarwater.
Moore.	Terrell.
Morse.	Tillotson.
Palmer.	Turner.
Patterson.	Van Zandt.
Pavlica.	Waddell.
Pool.	Wallace.
Pope of Jones.	Walters.
Pope of Nueces.	Warwick.
Quinn.	Webb.
Ray.	West.
Reader.	Westbrook.
Renfro.	Williams
Richardson.	of Sabine.
Riley.	Woodruff.
Rogers.	Young.

Nays—22.

Ackerman.	Kennedy.
Albritton.	Kenyon.
Allred.	Lemens.
Brooks.	McDonald.
Davis.	Petsch.
Duvall.	Purl.
Holder.	Savage.
Jenkins.	Shelton.
Johnson	Simmons.
of Dimmit.	Williams
Justiss.	of Travis.
Keeton.	

Present—Not Voting.

Anderson.	Martin.
Farrar.	Nicholson.
Harding.	

Absent.

Acker.	Metcalfe.
Adkins.	Montgomery.
Avis.	Mosely.
Baldwin.	Mullally.
Beck.	Murphy.
Bradley.	Negley.
Brice.	Olsen.
Harman.	O'Neill.
Hogg.	Prendergast.
Hopkins.	Sanders.
Hornaday.	Stevenson.
Hubbard.	Thompson.
Kemble.	Veatch.
Magee.	Wiggs.
McCombs.	

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

Question then recurring on the resolution, it was adopted.

RELATING TO HOUSE BILL NO. 72.

Mr. Loy moved that House bill No. 72 be recommitted to the Committee on Common Carriers.

Mr. Barnett raised a point of order on further consideration of the bill on the ground that the subject matter contained in the bill has not been submitted by the Governor.

The Speaker stated to the House that he would withhold his ruling until 2 o'clock p. m. today.

HOUSE BILL NO. 6 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 6, A bill to be entitled "An Act providing for State supervision of cotton weighing at cotton compresses and other points of concentration and distribution; providing for State compress weight supervisors; providing exceptions, penalties, fees to cover expense of administering the act, making appropriation of moneys to carry same into effect, and enacting all provisions and regulations incidental to the subject and purpose of this act, and declaring an emergency."

The bill was read second time.

(Mr. Kemble in the chair.)

Mr. Lee offered the following (committee) amendment to the bill:

Amend House bill No. 6 by striking out all after the enacting clause and insert in lieu thereof the following:

Section 1. There shall be appointed by the Commissioner of Agriculture each year as many weight supervisors as may be deemed necessary to see that all cotton is weighed accurately at all points in this State where cotton is handled, bought, sold, concentrated, or stored; and said weight supervisors shall perform such duties in connection with the supervision of weights and measures affecting cotton only as in the judgment of the Commissioner of Agriculture is necessary in order to protect the public interest. Such weight supervisors shall serve at the pleasure of the Commissioner of Agriculture, not to exceed two years under one appointment.

Sec. 2. Each weight supervisor, before entering upon his duties, shall take the official oath and execute a good and sufficient surety company bond in the sum of \$2000.00, conditioned upon the faithful and impartial performance of the duty of his office. Such bond so

filed shall be made payable to the State of Texas and shall not be void on first recovery, but may be sued on by any person injured by such weight supervisor. All bonds given by such weight supervisors shall be subject to the approval of the Commissioner of Agriculture, and all bonds and oaths of such weight supervisors shall be filed with said Commissioner.

Sec. 3. It shall be the duty of the weight supervisors to see that all cotton is properly and accurately weighed. In all instances where it is necessary for the weight supervisors to check the weights of any person in this State, or to recheck the weights of any cotton previously weighed, it shall be the duty of said supervisors to make and keep a full and complete record of such cotton showing the description or marks and tags of such cotton and the weight thereof. A copy of such record shall be mailed or delivered to the party entitled to same at the end of the day during which the cotton weight is checked by said supervisors. It shall be the duty of said weight supervisors to examine into any cotton which may have been reconditioned, or which may require reconditioning, because of damaged condition when shipped, in all instances where any party at interest desires and requests such examination of cotton needing reconditioning. Also, it shall be the duty of said supervisors to report to the party entitled to such report the amount of damaged cotton removed from the bale, the weight of the bale prior to reconditioning, and the weight of the bale subject to reconditioning. Provided said weight supervisor shall perform no other duties but such as pertain to cotton weighing supervision as provided in this section.

Sec. 4. When a bale of cotton is received at a compress in a wet or damp condition, it shall be the duty of the State weight supervisor to record its actual weight and in addition he shall record on his weight certificate in ink or other indelible substance a notation that the cotton is damp or wet; provided, however, deductions for excess moisture may be suggested by the State weight supervisor if the seller, shipper or consigner shall make such agreement with the buyer or consignee at the time of the making of the sale or consignment.

Sec. 5. It shall be the duty of the State weight supervisor to test all scales as to their accuracy used in weighing cotton by the compress to which he is appointed. In the testing of said scales the authority and procedure as pre-

scribed in Chapter 7, Title 92, Revised Civil Statutes of Texas for 1925, for inspectors of weights and measures in the inspection of weighing and measuring devices is hereby conferred on the State compress weight supervisor.

Sec. 6. No person shall be appointed a State compress weight supervisor unless he is an experienced cotton weigher. He shall have a fair education and be able to keep an accurate and legible record as required by this act. All State compress weight supervisors shall be persons of sufficient scientific knowledge to properly inspect, examine and report on the technical condition of scales used in weighing cotton. The Commissioner of Agriculture shall provide for such examination as he may deem necessary to determine the qualifications and fitness of appointees.

Sec. 7. The Commissioner of Agriculture shall set the salary of all compress weight supervisors, which shall not exceed the amount of \$175.00 per month, which payments of said salary shall be made when possible to reach the employee by the first of each month, and the said Commissioner shall make such payments out of the compress fees herein provided, and the Commissioner of Agriculture is authorized to pay out of the fees created herein all necessary expenses incurred in the enforcement of this act.

Sec. 8. To cover the expense of the police regulation herein provided, every person engaged in the operation of a compress for compressing cotton in this State shall pay to the State of Texas a fee of two cents (2) on each bale of cotton. Such fee shall be due and payable at the office of the Commissioner of Agriculture at Austin on the 15th day of each month. The compress charges herein provided in this section shall not apply to high density compresses when pressing cotton that has been compressed prior to recompression, but shall apply where compress cotton when in original condition as ginned. Said charge herein provided shall not be cumulative based on such cotton received from compression during the calendar month next preceding. Every such person so receiving cotton for compression shall, on or before the 15th day of each month, make and deliver to the Commissioner of Agriculture a report sworn to as correct by such person before an officer authorized to administer oaths in this State, on such forms as said Commissioner of Agriculture shall prescribe of the total number of bales of cotton received for compression by such person

during the next preceding calendar month.

Sec. 9. Any person required to make any report under this act failing to make the same in the manner or within the time prescribed by this law shall forfeit to the State a penalty of not to exceed one thousand (\$1000.00) dollars. Such penalty shall draw eight per cent (8%) interest from the due date until paid.

Sec. 10. The money under this act shall be placed in the State Treasury to the credit of a special cotton account to be known as a cotton supervision fund by the Commissioner of Agriculture immediately upon the collection of the same and said money to be expended only for supervising cotton weight.

Sec. 11. All such moneys are hereby appropriated for two years, the same, or so much as necessary, to be used to pay the salaries and other necessary expenses to properly carry out the provisions of this act. The portion of the fund used in the enforcement of this act shall be paid out upon warrants drawn by the Comptroller against the State Treasury upon accounts approved by the Commissioner of Agriculture.

Sec. 12. All owners of compresses in this State receiving cotton for storage, compression or shipment shall, on or before thirty days after the passage of this act, file an acknowledged statement with the Commissioner of Agriculture, which statement shall set forth the name under which such compress transacts its business, the principal office, residence or place of business in Texas, and if other than an individual the principal offices of members thereof, not to exceed three, and their offices, street or post-office address. Any person who shall refuse or fail to make such statement shall be guilty of a misdemeanor and on conviction be fined not less than \$50.00 nor more than \$200.00.

Sec. 13. It shall be unlawful for any owner, manager or agent of a compress receiving cotton for storage or compression to take from any bale of cotton for a sample or for any reason except upon the request of the owner, and any and all cotton taken from a bale in reconditioning the same shall be accounted for to the owner. Any person who violates this section or the preceding section shall be guilty of a misdemeanor, and on conviction shall be fined not less than \$25.00 nor more than \$200.00.

Sec. 14. Should any State weight supervisor enter into any conspiracy to report any false weight or weights, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined

not less than \$500.00 and in addition thereto shall be confined in the county jail for not less than six months.

Sec. 15. Any person violating any section of this act, where no penalty is specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50.00 and not more than \$500.00 and in addition thereto may be imprisoned in the county jail for a term of not less than ten days and not more than sixty days.

Sec. 16. The Commissioner of Agriculture may promulgate any and all reasonable rules and regulations necessary for the proper and successful enforcement of the provisions of this act. All weight supervisors are subject to the direction of the Commissioner, and at his direction he may transfer any number of supervisors to work in any division of the Department of Agriculture when the movement of cotton is insufficient to demand the full time of all supervisors.

Sec. 17. Whoever hinders or obstructs in any way the Commissioner of Agriculture or his duly appointed weight supervisors in the performance of their duties, as prescribed by this act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$50.00 nor more than \$200.00.

Sec. 18. All laws and parts of laws in conflict with the provisions of this act are hereby repealed. Nothing in this act shall be cumulative thereof.

Sec. 19. If any section of this act shall for any reason be declared unconstitutional it shall not thereby affect any other section hereof.

Sec. 20. The fact that the cotton farmers have sustained losses in weights when selling their cotton, and having likewise sustained great losses in the abuses now prevalent of reconditioning cotton in this State, and further that there is no law providing for the appointments of weight supervisors for compresses in this State, and the further fact that Texas is the leading agricultural State in the Union and those engaged in the agricultural pursuits are in great need of such duly appointed State weight supervisors.

Sec. 21. The fact that the cotton farmers of this State have sustained losses in weights, when selling their cotton, which losses are reflected in the price received for the same, and likewise sustained and having likewise had unsatisfactory losses and abuses in the reconditioning of cotton in this State and further that there is no law provided for weight supervisors for the

weighing of cotton in this State and the further fact that Texas is the leading agricultural State in the Union, and those engaged in agricultural pursuits are in great need of such duly appointed State weight supervisors, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended and that this act shall take effect and be in force from and after its passage, and it is so enacted.

On motion of Mr. Morse, further consideration of the bill was postponed until 2 o'clock p. m. today.

HOUSE BILL NO. 23 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 23. A bill to be entitled "An Act to amend Chapter 81 of the General Laws of the State of Texas, passed by the Fourth Called Session of the Thirty-fifth Legislature, approved April 3, 1918, creating the Commission of Appeals of the State, as amended by Chapter 34 of the General Laws of the State of Texas, passed by the Second Called Session of the Thirty-sixth Legislature, approved July 25, 1919, as amended by Chapter 119 of the General Laws of the State of Texas, passed by the Regular Session of the Thirty-seventh Legislature, approved March 31, 1921, as amended by Chapter 154 of the General Laws of the State of Texas, passed at the Regular Session of the Thirty-eighth Legislature, approved March 30, 1923, as amended by Chapter 53 of the General Laws of the State of Texas, passed by the Regular Session of the Thirty-ninth Legislature, approved March 9, 1925, providing for the creation of a Commission to aid the Supreme Court of Texas, and declaring an emergency."

The bill was read second time.

Mr. Hopkins offered the following amendment to the bill:

Amend House bill No. 23 by adding to Section 2 thereof the following, to-wit: "Provided and except, however, no member of the Commission of Appeals so appointed herein set out shall qualify or receive the oath of office until his appointment shall have been confirmed by and through the advice and consent of two-thirds of the Senate present."

The amendment was adopted.

Mr. Hopkins offered the following amendment to the bill:

Amend House bill No. 23 by adding to Section 3 thereof the following, viz.: "Provided and except, however, such appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Supreme Court shall, without delay, make further nominations until a confirmation takes place. But, should there be no confirmation during the session of the Senate, the Supreme Court shall not thereafter appoint any person to fill such vacancy who has been rejected by the Senate, but may appoint some other person to fill the vacancy until the next session of the Senate."

The amendment was adopted.

House bill No. 23 was then passed to engrossment.

HOUSE BILL NO. 23 ON THIRD READING.

Mr. Graves of Williamson moved that the constitutional rule requiring bills to be read on three several days be suspended and that House bill No. 23 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—103.

Acker.	Gilbert.
Ackerman.	Giles.
Albritton.	Graves
Allred.	of Williamson.
Baker.	Graves of Erath.
Barnett.	Hardy.
Bateman.	Harding.
Bond.	Harman.
Bounds.	Harper.
Bradley.	Harrison.
Brooks.	Hines.
Carpenter.	Horkins.
Chastain.	Hubbard.
Coltrin.	Jenkins.
Conway.	Johnson
Cox of Lamar.	of Dallam.
Cox of Limestone.	Johnson
Davis.	of Dimmit.
DeWolfe.	Johnson of Scurry.
Dunlap.	Justiss.
Duvall.	Keller.
Enderby.	Kemble.
Farrar.	Kennedy.
Finn.	Kenyon.
Finlay.	Kincaid.
Forbes.	Land.
Gates.	Lee.

Magee.	Rogers.
Mankin.	Sanders.
Marks.	Savage.
Mauritz.	Shaver.
Maynard.	Shelton.
McDonald.	Simmons.
McGill.	Sinks.
Mehl.	Snelgrove.
Metcalf.	Stephens.
Moore.	Stevenson.
Morse.	Tarwater.
Negley.	Terrell.
Nicholson.	Tillotson.
Olsen.	Turner.
Patterson.	Waddell.
Pavlica.	Wallace.
Petsch.	Walters.
Pool.	Warwick.
Pope of Nueces.	Webb.
Purl.	West.
Quinn.	Westbrook.
Ray.	Williams
Reader.	of Sabine.
Renfro.	Williams
Richardson.	of Travis.
Riley.	Woodruff.

Nays—1.

Van Zandt.

Present—Not Voting.

Anderson. Jones.

Absent.

Mr. Speaker.	Martin.
Adkins.	McCombs.
Avis.	Montgomery.
Baldwin.	Mosely.
Beck.	Mullally.
Brice.	Murphy.
Eickenroht.	O'Neill.
Hogg.	Palmer.
Holder.	Pope of Jones.
Hornaday.	Prendergast.
Keeton.	Sherrill.
King.	Speck.
Lemens.	Thompson.
Long of Houston.	Veatch.
Long of Wichita.	Wiggs.
Loy.	Young.

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

The Speaker then laid House bill No. 23 before the House on its third reading and final passage.

The bill was read third time.

Mr. Graves of Williamson offered the following amendment to the bill:

Amend caption House bill No. 23, "and providing for the confirmation of such Commissioners by the Senate."

The amendment was adopted.

House bill No. 23 was then passed by the following vote:

Yeas—101.

Acker.	Marks.
Ackerman.	Mauritz.
Albritton.	Maynard.
Allred.	McDonald.
Barnett.	McGill.
Bateman.	Mehl.
Bounds.	Metcalf.
Bradley.	Moore.
Brooks.	Morse.
Carpenter.	Murphy.
Chastain.	Negley.
Coltrin.	Nicholson.
Conway.	Olsen.
Cox of Limestone.	Patterson.
Davis.	Pavlica.
DeWolfe.	Petsch.
Enderby.	Pool.
Farrar.	Pope of Nueces.
Finn.	Purl.
Finlay.	Quinn.
Forbes.	Ray.
Gates.	Reader.
Gilbert.	Renfro.
Giles.	Richardson.
Graves	Riley.
of Williamson.	Rogers.
Graves of Erath.	Sanders.
Hardy.	Savage.
Harding.	Shaver.
Harper.	Shelton.
Harrison.	Simmons.
Hines.	Sinks.
Hopkins.	Snelgrove.
Hubbard.	Stephens.
Jenkins.	Stevenson.
Johnson	Tarwater.
of Dallam.	Terrell.
Johnson	Tillotson.
of Dimmit.	Turner.
Johnson of Scurry.	Waddell.
Jones.	Wallace.
Justiss.	Walters.
Keller.	Warwick.
Kemble.	Webb.
Kennedy.	West.
Kenyon.	Wiggs.
Kincaid.	Williams
Land.	of Sabine.
Lee.	Williams
Long of Wichita.	of Travis.
Magee.	Woodruff.
Mankin.	Young.

Nays—2.

Cox of Lamar. Van Zandt.

Present—Not Voting.

Anderson.

Absent.

Mr. Speaker.	Lemens.
Adkins.	Long of Houston.
Avis.	Loy.
Baker.	Martin.
Baldwin.	McCombs.
Beck.	Montgomery.
Bond.	Mosely.
Brice.	Mullally.
Dunlap.	O'Neill.
Duvall.	Palmer.
Eickenroht.	Pope of Jones.
Harman.	Prendergast.
Hogg.	Sherrill.
Holder.	Speck.
Hornaday.	Thompson.
Keeton.	Veatch.
King.	Westbrook.

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Montree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

RECESS.

On motion of Mr. Gilbert, the House, at 12 o'clock m., took recess to 2 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 2 o'clock p. m., and was called to order by Speaker Barron.

HOUSE BILL NO. 6 ON PASSAGE TO ENGROSSMENT.

The Speaker laid before the House, as postponed business, House bill No. 6, relative to cotton weighers, on its passage to engrossment, with committee amendment by Mr. Lee, pending.

Mr. Lee offered the following amendments to the (committee) amendment:

(1)

Amend Section 1, page 6, of committee amendment No. 1, by striking out the word "paints" in line 36 and substituting "points" therefor, and by inserting the word "ginned" between the words "is" and "handled" in line 36, and by inserting the word "compressed" between the word "concentrated" and the word "or" in line 37, and by striking out the word "only" in line 39.

(2)

Amend Section 3, page 7, committee amendment No. 1, by striking out lines 34, 35 and 36 thereof.

(3)

Amend committee amendment No. 1 by striking out all of Section 4, lines 37 to 40, both inclusive, on page 7, and lines 1 to 5 on page 8.

(4)

Amend committee amendment No. 1, Section 5, page 8, by striking out the words "by the compress to which he is appointed" in lines 7 and 8, and placing a period after "cotton" in line 7.

(5)

Amend committee amendment No. 1, Section 1, by inserting the word "ginned" between the word "is" and "handled" in line 36, page 6.

(6)

Amend Section 1, committee amendment No. 1, by inserting the word "compressed" between the word "concentrated" and the word "or" in line 37, page 6.

(7)

Amend Section 6, committee amendment No. 1, by striking out the word "compress" in line 6 and inserting in lieu thereof the word "cotton," and by striking out the word "compress" in line 17 and inserting the word "cotton" in lieu thereof.

(8)

Amend Section 8, page 8, committee amendment No. 1, by striking out the word "compress" in line 34 and inserting "gin" in lieu thereof, and by striking out the word "compressing" in line 35 and inserting the word "ginning," and inserting in line 36 the word "ginned" between the word "cotton" and the period, and inserting the words "during operations" in line 38 between the word "month" and the period, and by striking out the word "the" at the end of line 38 on page 8 down to and including the word "preceding" in line 5, page 9, and by changing the word "compression" in lines 5 and 6 and inserting the word "ginning" therefor, and by striking out the word "of" in line 10 and inserting the word "showing" therefor, and by striking out the word "compression" in line 41 and inserting the word "ginning" therefor.

(9)

Amend Section 12, page 9, of committee amendment No. 1, by striking out the word "compresses" in line 31 and inserting the word "gin" therefor, and by striking out the words "storage compression or shipment" in line 32 and

inserting the words "original ginning" therefore, and by striking out the word "compress" in line 35 and inserting the word "gin" therefor.

(10)

Amend committee amendment No. 1, in Section 13, page 10, by inserting the words "any amount of cotton" between the words "cotton" and "for" in line 5 and inserting the word "other" between the words "any" and "season" in line 5, and by striking out the word "in" in line 7 and inserting the words "upon being" therefor.

(11)

By amending committee amendment No. 1, Section 14, page 10, by inserting the words "nor more than \$1,000" between the figures "\$500" and the word "and" in line 14 and by inserting the word "or" between the words "and" and "in" in line 14, and by adding the words "nor more than one year" after the "months" in line 15.

(12)

Amend committee amendment No. 1 by striking out all of Section 15, on page 10.

(13)

Amend Section 18, page 10, of committee amendment No. 1, by inserting the words "shall be construed as affecting the public weighers' law, but" between the word "act" in line 36 and the word "shall" in line 37.

(14)

Amend committee amendment No. 1 by striking out all of Section 21, on page 11.

(15)

Amend Section 21, page 11, of committee amendment No. 1, by adding after the word "for" at the end of line 15 the words "supervising of," and by changing the word "these" in line 17 to "those."

The amendments were severally adopted.

Mr. McDonald offered the following amendment to the (committee) amendment:

Amend House bill No. 6, committee amendment No. 1, page 9, by striking out all of Section 9 and substituting in lieu thereof the following:

"Sec. 9. Any person required to make any report under the terms and provisions of this act, who shall willfully fail or refuse to make the same in the manner or within the time prescribed by this law, shall be guilty of a misde-

meanor and upon conviction shall be fined not less than one dollar (\$1.00) nor more than one thousand dollars (\$1,000.00)."

The amendment was adopted.

Mr. Westbrook offered the following amendment to the (committee) amendment:

Amend committee amendment for House bill No. 6 by striking out Section 7 thereof and substituting therefor the following:

"Sec. 7. To cover the expenses of the police regulations herein provided, every person engaged in the operation of a gin for ginning cotton in this State shall pay to the State of Texas a fee of two cents (2c) on each square bale and a fee of one cent (1c) on each round bale of cotton originally ginned, and such fee shall be due and payable at the office of the Commissioner of Agriculture at Austin on the 15th day of each month and every such person so receiving cotton for original ginning shall, on or before the 15th day of each month during the period of ginning operations, make and deliver to the Commissioner of Agriculture a report, sworn to as correct by such person before an officer authorized to administer oaths in this State, on such forms as said Commissioner of Agriculture shall prescribe, showing the total number of square and/or round bales of cotton received for original ginning by such person during the next preceding calendar month."

The amendment was adopted.

Mr. Sanders offered the following amendment to the (committee) amendment:

Amend committee substitute to House bill No. 6 by adding to Section 6, line 15, after the words "cotton weigher" the following: "and such State weight supervisor shall not be a stockholder, officer, employ or in anywise connected with any compress."

Signed—Sanders, Wallace.

The amendment was adopted.

Mr. Pope of Nueces offered the following amendment to the (committee) amendment:

Amend committee substitute to House bill No. 6 by striking out lines 21, 22 and 23 and all of line 20 after the word "treasury," page 9, and add the word "collected" after the word "money" in line 19, page 9.

(Mr. Young in the chair.)

Mr. Lee moved to table the amendment by Mr. Pope of Nueces.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—75.

Acker.	Marks.
Ackerman.	Martin.
Adkins.	Mauritz.
Allred.	Maynard.
Baker.	McDonald.
Barnett.	McGill.
Bateman.	Metcalfe.
Bounds.	Morse.
Bradley.	Olsen.
Brice.	Palmer.
Carpenter.	Patterson.
Coltrin.	Pavlica.
Conway.	Petsch.
Cox of Lamar.	Pool.
Davis.	Quinn.
Duvall.	Ray.
Enderby.	Reader.
Finn.	Riley.
Finlay.	Rogers.
Forbes.	Sanders.
Gates.	Savage.
Gilbert.	Shelton.
Giles.	Simmons.
Graves of Erath.	Sinks.
Harper.	Snelgrove.
Hornaday.	Speck.
Hubbard.	Tarwater.
Jenkins.	Terrell.
Johnson	Tillotson.
of Dimmit.	Van Zandt.
Jones.	Wallace.
Keeton.	Walters.
Keller.	Warwick.
King.	Webb.
Lee.	West.
Lemens.	Williams
Long of Houston.	of Travis.
Loy.	Young.
Magee.	

Nays—24.

Albritton.	Long of Wichita.
Anderson.	Mankin.
Bond.	Moore.
DeWolfe.	Pope of Jones.
Graves	Pope of Nueces.
of Williamson.	Renfro.
Hardy.	Richardson.
Harrison.	Sherrill.
Hopkins.	Stevenson.
Justiss.	Turner.
Kennedy.	Waddell.
Kenyon.	Williams
Kincaid.	of Sabine.

Present—Not Voting.

Holder.	Stephens.
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Absent.

Mr. Speaker.	Chastain.
Avis.	Cox of Limestone.
Baldwin.	Dunlap.
Beck.	Eickenroht.
Brooks.	Farrar.

Harding.	Mullally.
Harman.	Murphy.
Hines.	Negley.
Hogg.	Nicholson.
Johnson	O'Neill.
of Dallam.	Prendergast.
Johnson of Scurry.	Purl.
Kemble.	Shaver.
Land.	Thompson.
McCombs.	Veatch.
Mehl.	Westbrook.
Montgomery.	Wiggs.
Mosely.	Woodruff.

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

Mr. Morse offered the following amendment to the (committee) amendment:

Amend the amendment to House bill No. 6 as amended, page 10, Section 18, lines 36 and 37, by inserting between the words "law" and "but" the following: "or either elective or appointive weighers."

The amendment was adopted.

Mr. Williams of Travis offered the following amendment to the (committee) amendment:

Amend House bill No. 6 by inserting in Section 11 of the committee amendment No. 1 after the words "Commissioner of Agriculture" the following: "and a copy thereof to the State Auditor at Austin, Texas."

The amendment was adopted.

Mr. Tarwater moved the previous question on the pending amendment and the bill, and the main question was ordered.

Question first recurring on the committee amendment as amended, it was adopted.

By unanimous consent of the House, the caption of the bill was ordered amended to conform to all changes made in the body of the bill.

House bill No. 6 was then passed to engrossment.

HOUSE BILL NO. 6 ON THIRD READING.

Mr. Lee moved that the constitutional rule requiring bills to be read on three several days be suspended and that House bill No. 6 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—92.

Acker.	Long of Houston.
Ackerman.	Loy.
Adkins.	Magee.
Albritton.	Marks.
Allred.	Martin.
Anderson.	Mauritz.
Baker.	Maynard.
Barnett.	McDonald.
Bateman.	McGill.
Bounds.	Metcalfe.
Brice.	Negley.
Brooks.	Patterson.
Carpenter.	Pavlica.
Chastain.	Petsch.
Coltrin.	Pool.
Conway.	Pope of Jones.
Cox of Limestone.	Purl.
Davis.	Quinn.
Dunlap.	Ray.
Duvall.	Reader.
Enderby.	Richardson.
Farrar.	Riley.
Finn.	Rogers.
Forbes.	Sanders.
Gilbert.	Savage.
Giles.	Shaver.
Graves	Shelton.
of Williamson.	Simmons.
Graves of Erath.	Sinks.
Hardy.	Snelgrove.
Harman.	Speck.
Harper.	Stephens.
Harrison.	Stevenson.
Hogg.	Tarwater.
Holder.	Terrell.
Hopkins.	Tillotson.
Hornaday.	Van Zandt.
Jenkins.	Waddell.
Johnson	Wallace.
of Dimmit.	Walters.
Johnson of Scurry.	Warwick.
Jones.	Webb.
Justiss.	West.
Keller.	Williams
Kincaid.	of Sabine.
King.	Williams
Lee.	of Travis.
Lemens.	Young.

Nays—12.

Bond.	Mankin.
Eickenroht.	Moore.
Harding.	Olsen.
Kennedy.	Pope of Nueces.
Kenyon.	Renfro.
Long of Wichita.	Sherrill.

Absent.

Mr. Speaker.	Bradley.
Avis.	Cox of Lamar.
Baldwin.	DeWolfe.
Beck.	Finlay.

Gates.	Mullally.
Hines.	Murphy.
Hubbard.	Nicholson.
Johnson	O'Neill.
of Dallam.	Palmer.
Keeton.	Prendergast.
Kemble.	Thompson.
Land.	Turner.
McCombs.	Veatch.
Mehl.	Westbrook.
Montgomery.	Wiggs.
Morse.	Woodruff.
Mosely.	

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

The Speaker then laid House bill No. 6 before the House on its third reading and final passage.

The bill was read third time, and was passed.

Mr. Lee moved to reconsider the vote by which the bill was passed.

The motion to reconsider prevailed.

House bill No. 6 was then passed by the following vote:

Yeas—90.

Acker.	Hogg.
Ackerman.	Holder.
Adkins.	Hornaday.
Albritton.	Jenkins.
Allred.	Johnson
Baker.	of Dimmit.
Barnett.	Johnson of Scurry.
Bateman.	Jones.
Bounds.	Justiss.
Bradley.	Keller.
Brice.	Kennedy.
Brooks.	Kincaid.
Carpenter.	King.
Chastain.	Lee.
Coltrin.	Lemens.
Conway.	Long of Houston.
Cox of Lamar.	Loy.
Cox of Limestone.	Magee.
Davis.	Marks.
DeWolfe.	Martin.
Duvall.	Mauritz.
Enderby.	Maynard.
Finn.	McDonald.
Finlay.	McGill.
Fuchs.	Metcalfe.
Gilbert.	Negley.
Giles.	Patterson.
Graves	Pavlica.
of Williamson.	Petsch.
Graves of Erath.	Pool.
Harper.	Pope of Jones.
Harrison.	Purl.

Quinn.	Tarwater.
Ray.	Terrell.
Reader.	Tillotson.
Richardson.	Van Zandt.
Rogers.	Waddell.
Sanders.	Wallace.
Savage.	Walters.
Shaver.	Warwick.
Shelton.	Webb.
Simmons.	West.
Sinks.	Westbrook.
Snelgrove.	Williams
Speck.	of Travis.
Stephens.	Young.
Stevenson.	

Nays—13.

Anderson.	Moore.
Bond.	Murphy.
Hardy.	Pope of Nueces.
Harding.	Riley.
Kenyon.	Sherrill.
Long of Wichita.	Williams
Mankin.	of Sabine.

Present—Not Voting.

Farrar.

Absent.

Mr. Speaker.	Mehl.
Avis.	Montgomery.
Baldwin.	Morse.
Beck.	Mosely.
Dunlap.	Mullally.
Eickenroht.	Nicholson.
Gates.	Olsen.
Harman.	O'Neill.
Hines.	Palmer.
Hopkins.	Prendergast.
Hubbard.	Renfro.
Johnson	Thompson.
of Dallam.	Turner.
Keeton.	Veatch.
Kemble.	Wiggs.
Land.	Woodruff.
McCombs.	

Absent—Excused.

Forbes.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith	Storey.
Kayton.	Williams
Kinnear.	of Hardin.
McKean.	

Reason for Vote.

I was absent on important business when a vote was taken on House bill No. 6. Had I been present, I should have voted "yea."

HINES.

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, March 4, 1930.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed:

H. C. R. No. 7, Assuring title-holders on boundary of Texas, formerly a part of the State of Oklahoma, that the Texas Legislature will consider their rights consistent with Texas laws when final disposition of the land is authorized.

H. C. R. No. 4, Authorizing an audit of the records of each State educational institution.

Respectfully,

MORRIS C. HANKINS,

Assistant Secretary of the Senate.

(Speaker in the chair.)

RELATIVE TO PRISON BOARD.

Mr. Duvall offered the following resolution:

Whereas, The State Prison Board met at Houston, Texas, on March 3d, 1930, and unanimously adopted a resolution which reads as follows:

"On account of the extremely overcrowded conditions of the penitentiary proper at Huntsville and the various prison units at the farms, and the physical condition of the said properties, and for protection of the public at large and the State, as well as for the protection and welfare of the prisoners themselves, the acting general manager is hereby instructed to notify the transfer agent of the system and the warden of the penitentiary that no more prisoners will be received in the State prison system until the normal capacity of the prison system is reached, at which time further notice will be given. The above resolution adopted by the Prison Board on 3-3-30"; and

Whereas, In commenting upon the above resolution, the chairman of the Prison Board said: "The resolution positively was not intended as an axe to be held over the head of the Legislature, which now is considering prison reorganization and reform"; and

Whereas, The action of the Board is contrary to the laws of this State and conflicting with the statutes governing the operation of the penitentiary system; and

Whereas, The unanimous statement of the Board to the effect that they will not, in the future, comply with the laws of this State is contrary to public pol-

icy and the best interest of the State; therefore, be it

Resolved, that the House of Representatives of the 41st Legislature, sitting in its Fifth Special Session, request the entire Board to tender their resignations at once, and that the Governor of this State be requested to immediately appoint a new Board, composed of men who will endeavor to obey the laws of this State in managing and conducting the penitentiary system.

Signed—Duvall, Patterson, Pope of Nueces, Finlay.

The resolution was read second time.

Mr. Tillotson raised a point of order on further consideration of the resolution at this time on the ground that the resolution is not privileged and that the time for the consideration of resolutions has expired.

The Speaker overruled the point of order.

Mr. Purl moved that further consideration of the resolution be postponed indefinitely.

Mr. Hopkins offered the following amendment to the resolution:

Amend simple resolution by striking out all of the last paragraph thereof and substituting in lieu thereof the following, viz.:

"Therefore, be it resolved, That the House of Representatives of the Forty-first Legislature, in its Fifth Special Session, deplores the statement above quoted as ill-timed and ill-advised; and, having thrice heretofore expressed its views relative to penitentiary matters, is not desirous of being coerced in matters governing the passage of laws relative to the penitentiary. We further direct the attention of the Board to the statutory laws governing the acceptance and incarceration of felony-convicted prisoners."

Signed—Hopkins, Stevenson.

(Mr. Sanders in the chair.)

Mr. Morse moved the previous question on the motion to postpone indefinitely and pending amendment to the resolution, and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The main question was ordered by the following vote:

Yeas—90.

Ackerman.	Barnett.
Adkins.	Bond.
Albritton.	Bounds.
Allred.	Bradley.
Baker.	Brice.

Brooks.	Mauritz.
Carpenter.	Maynard.
Chastain.	McDonald.
Coltrin.	McGill.
Conway.	Metcalfe.
Cox of Lamar.	Moore.
Cox of Limestone.	Morse.
Davis.	Negley.
Dunlap.	Nicholson.
Finn.	Olsen.
Finlay.	Patterson.
Forbes.	Pavlica.
Giles.	Pool.
Graves	Pope of Nueces.
of Williamson.	Quinn.
Harman.	Reader.
Harper.	Renfro.
Harrison.	Richardson.
Hines.	Riley.
Hogg.	Rogers.
Holder.	Savage.
Hopkins.	Shaver.
Hornaday.	Simmons.
Hubbard.	Sinks.
Jenkins.	Speck.
Johnson	Stephens.
of Dallam.	Tarwater.
Jones.	Terrell.
Justiss.	Tillotson.
Kayton.	Turner.
Keeton.	Van Zandt.
Keller.	Waddell.
Kemble.	Warwick.
Kennedy.	Webb.
Kenyon.	West.
Land.	Westbrook.
Lee.	Wiggs.
Lemens.	Williams
Long of Houston.	of Sabine.
Magee.	Williams
Marks.	of Travis.
Martin.	Young.

Nays—19.

DeWolfe.	Mankin.
Duvall.	Petsch.
Graves of Erath.	Purl.
Johnson	Ray.
of Dimmit.	Shelton.
Johnson of Scurry.	Sherrill.
Kincaid.	Snelgrove.
King.	Stevenson.
Long of Wichita.	Wallace.
Loy.	Walters.

Present—Not Voting.

Bateman.

Absent.

Mr. Speaker.	Eickenroht.
Acker.	Farrar.
Anderson.	Gates.
Avis.	Gilbert.
Baldwin.	Hardy.
Beck.	Harding.
Enderby.	McCombs.

Mehl.	Pope of Jones.
Montgomery.	Prendergast.
Mosely.	Sanders.
Mullally.	Thompson.
Murphy.	Veatch.
O'Neill.	Woodruff.
Palmer.	

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith.	Storey.
Kinnear.	Williams
McKean.	of Hardin.

Question then recurring on the amendment by Mr. Hopkins, yeas and nays were demanded.

The amendment was adopted by the following vote:

Yeas—55.

Ackerman.	Kincaid.
Albritton.	King.
Allred.	Land.
Bateman.	Long of Houston.
Bond.	Long of Wichita.
Bounds.	Mankin.
Brice.	McDonald.
Brooks.	Moore.
Conway.	Negley.
DeWolfe.	Olsen.
Duvall.	Patterson.
Enderby.	Pavlica.
Farrar.	Pope of Nueces.
Finlay.	Quinn.
Gates.	Reader.
Gilbert.	Renfro.
Giles.	Rogers.
Graves	Shaver.
of Williamson.	Sinks.
Graves of Erath.	Snelgrove.
Harman.	Stephens.
Harrison.	Stevenson.
Hines.	Tarwater.
Hopkins.	Terrell.
Johnson of Scurry.	Webb.
Justiss.	Wiggs.
Kayton.	Williams
Keller.	of Sabine.
Kennedy.	

Nays—53.

Mr. Speaker.	Forbes.
Adkins.	Harper.
Baker.	Hogg.
Barnett.	Holder.
Bradley.	Hubbard.
Carpenter.	Johnson
Chastain.	of Dimmit.
Coltrin.	Jones.
Cox of Lamar.	Keeton.
Cox of Limestone.	Kemble.
Davis.	Lee.
Dunlap.	Lemens.
Finn.	Loy.

Magee.	Simmons.
Marks.	Speck.
Martin.	Tillotson.
McGill.	Turner.
Metcalfe.	Van Zandt.
Morse.	Waddell.
Pool.	Wallace.
Pope of Jones.	Walters.
Purl.	Warwick.
Ray.	West.
Richardson.	Westbrook.
Sanders.	Williams
Savage.	of Travis.
Shelton.	Woodruff.
Sherrill.	

Present—Not Voting.

Young.

Absent.

Acker.	McCombs.
Anderson.	Mehl.
Avis.	Montgomery.
Baldwin.	Mosely.
Beck.	Mullally.
Eickenroht.	Murphy.
Hardy.	Nicholson.
Harding.	O'Neill.
Hornaday.	Palmer.
Jenkins.	Petsch.
Johnson	Prendergast.
of Dallam.	Riley.
Kenyon.	Thompson.
Mauritz.	Veatch.
Maynard.	

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith	Storey.
Kinnear.	Williams
McKean.	of Hardin.

Paired.

Mr. Young (present), who would vote "nay," with Mr. Petsch (absent), who would vote "nay."

Question then recurring on the motion to postpone the resolution indefinitely, yeas and nays were demanded.

The motion to postpone prevailed by the following vote:

Yeas—62.

Mr. Speaker.	Coltrin.
Adkins.	Conway.
Allred.	Cox of Lamar.
Baker.	Cox of Limestone.
Barnett.	Davis.
Bateman.	Dunlap.
Bond.	Enderby.
Bradley.	Finn.
Carpenter.	Forbes.
Chastain.	Gilbert.

Harper.	Morse.
Hogg.	Pool.
Holder.	Pope of Jones.
Hornaday.	Purl.
Hubbard.	Ray.
Johnson	Riley.
of Dallam.	Rogers.
Johnson	Savage.
of Dimmit.	Shelton.
Jones.	Speck.
Justiss.	Tillotson.
Keeton.	Turner.
Kemble.	Van Zandt.
Kincaid.	Waddell.
Land.	Wallace.
Lee.	Warwick.
Lemens.	West.
Loy.	Westbrook.
Magee.	Wiggs.
Marks.	Williams
Martin.	of Travis.
McGill.	Woodruff.
Metcalfe.	

Nays—48.

Ackerman.	Long of Wichita.
Albritton.	Mankin.
Bounds.	Moore.
Brice.	Negley.
Brooks.	Olsen.
DeWolfe.	Palmer.
Duvall.	Patterson.
Farrar.	Pavlica.
Finlay.	Pope of Nueces.
Gates.	Quinn.
Giles.	Reader.
Graves	Renfro.
of Williamson.	Richardson.
Graves of Erath.	Shaver.
Harman.	Sherrill.
Harrison.	Sinks.
Hines.	Snelgrove.
Hopkins.	Stephens.
Johnson of Scurry.	Stevenson.
Kayton.	Tarwater.
Keller.	Terrell.
Kennedy.	Walters.
Kenyon.	Webb.
King.	Williams
Long of Houston.	of Sabine.

Present—Not Voting.

Young.

Absent.

Acker.	McCombs.
Anderson.	McDonald.
Avis.	Mehl.
Baldwin.	Montgomery.
Beck.	Mosely.
Eickenroht.	Mullally.
Hardy.	Murphy.
Harding.	Nicholson.
Jenkins.	O'Neill.
Mauritz.	Petsch.
Maynard.	Prendergast.

Sanders.	Thompson.
Simmons.	Veatch.

Absent—Excused.

Fuchs.	Minor.
Heaton.	Reid.
Hefley.	Rountree.
Johnson of Smith	Storey.
Kinnear.	Williams
McKean.	of Hardin.

Paired.

Mr. Young (present), who would vote "nay," with Mr. Petsch (absent), who would vote "yea."

(Speaker in the chair.)

Mr. Purl moved to reconsider the vote by which the motion to postpone indefinitely prevailed, and to table the motion to reconsider.

The motion to table prevailed.

INVITING HON. CALVIN COOLIDGE TO VISIT THE HOUSE OF REPRESENTATIVES.

Mr. Williams of Travis offered the following resolution:

Whereas, His Excellency, Calvin Coolidge, will pass through Austin on the Texas Special at noon on Thursday next; and

Whereas, Arrangements are now being made by the Austin Chamber of Commerce to have the train delayed so that this distinguished visitor may visit the State Capitol; now, therefore, be it

Resolved, That the House of Representatives request the Speaker to communicate with the officials of the railroad, requesting that said train be delayed and that he also wire Hon. Calvin Coolidge aboard Train 102 at El Paso, extending invitation to visit the House, and that the expense be paid out of the contingent expense fund.

The resolution was read second time, and was adopted.

RESOLUTIONS SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof and their captions had been read, the following enrolled resolutions:

H. C. R. No. 4, Relative to the State Auditing Department.

H. C. R. No. 7, Relative to the Texas-Oklahoma boundary line.

RELATING TO HOUSE BILL NO. 72.

Mr. Barnett called up, for consideration at this time, the motion made this morning to recommit House bill No. 72

to the Committee on Common Carriers, and the point of order made by himself on the motion to recommit, on the ground that it had not been submitted by the Governor.

The Speaker sustained the point of order and submitted the following opinion from the Attorney General, which was ordered printed in the Journal:

Austin, Texas, March 4, 1930.

Hon. W. S. Barron, Speaker of the House of Representatives, Capitol.

Dear Sir: This Department is in receipt of your letter of this date, to which you attach House bill No. 72, pertaining to the regulation of the ice business, and ask to be advised if this bill comes within the provisions of the Governor's message of March 3, 1930, submitted to the Legislature.

"The enactment of laws to further regulate pipe lines as common carriers of oil and to enlarge the powers of the Railroad Commission to control such common carriers is submitted to your consideration."

We do not believe that the fact that the attached bill will put the ice companies under the control of the Railroad Commission brings the same under the above quoted portion of the Governor's message.

The message provides for the enlargement of the powers of the Railroad Commission to control "such common carriers." The common carriers can refer only to the common carriers of oil mentioned in the message and does not open the way for legislation on any enlarged powers of the Railroad Commission.

Yours very truly,

H. GRADY CHANDLER,

First Assistant Attorney General.

PROPOSED AMENDMENT TO THE HOUSE RULES.

Mr. Morse offered the following proposed amendment to the House Rules:

Amend Rule VIII by adding a new section, to be known as Section 39, to read as follows:

"In the event a vacancy should occur on a committee by reason of the death, resignation or removal of any member, it shall be the duty of the Speaker to appoint a member to fill such vacancy."

The amendment was referred by the Speaker to the Committee on Rules.

COMMUNICATION IN REGARD TO PENSION FUND.

On motion of Mr. Barron, the following communication was ordered printed in the Journal:

Austin, Texas, March 4, 1930.

Hon. W. S. Barron, Speaker of the House of Representatives, Capitol.

Dear Sir: The Attorney General is in receipt of the resolution of the House calling upon him for an opinion as to the power of the Legislature to enact a provision which is contained in Senate bill No. 3, passed by the Senate at the Fourth Called Session of the Forty-first Legislature, reading as follows:

"If the pension fund is insufficient to pay fifty dollars (\$50.00) per month, and twenty-five dollars (\$25.00) per month, respectively, to each pensioner in the respective classes hereinbefore mentioned, a sufficient amount shall be advanced by the State Treasurer out of the general revenue fund in the State Treasury for that purpose and placed in the pension fund, and the amount so advanced shall be repaid out of the pension fund to the general revenue fund when there shall be a surplus in the pension fund over and above enough to pay said \$50.00 and \$25.00 per month to said classes of pensioners. There is hereby appropriated out of the general revenue fund the sum of \$500.00 for the purpose of said advancement."

The Constitution, in Section 51 of Article III, provides that the Legislature shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever; provided, however, that the Legislature may grant aid to indigent and disabled Confederate soldiers, etc. Said section of the Constitution also declares that "there is hereby levied, in addition to all other taxes heretofore permitted by the Constitution of Texas, a State ad valorem tax on property of 7 cents on the \$100 valuation for the purpose of creating a special fund for the payment of pensions for services in the Confederate army and navy, etc." It further provides that the Legislature may reduce the tax so levied. There is a further proviso that the provisions of this section shall not be construed so as to prevent the grant of aid in cases of public calamity. See said section and article, as amended in an amendment

adopted at an election held November 6, 1928.

It is a well-known rule that every provision in a State Constitution is a limitation on the power of the Legislature. The question is, what is the extent of the limitation of this provision in the Constitution levying a 7-cent tax for pensions for the purpose of creating a special fund for the payment of pensions? It seems clear that it is a limitation of the amount of ad valorem taxes that can be levied or used for the purpose of paying such pensions. This rule would seem to be deducible from the decisions of the courts in the following cases: *Carroll vs. Williams*, 202 S. W. 504; *Commissioners Court vs. Burke*, 262 S. W. 94; *Meyers vs. Walker*, 264 S. W. 314, which was affirmed by the Supreme Court in 266 S. W. 499.

In those cases, it was held that what is known as the four constitutional funds for county purposes derived from ad valorem taxes cannot be transferred from one fund to another. In other words, one such constitutional fund cannot be supplemented out of moneys in another such fund when derived from ad valorem taxes.

The same rule would seem to be true as to State funds created by the Constitution. For instance, there is the general State fund composed of not to exceed a 35-cent tax on property, the school fund composed of not to exceed 35 cents, and the Confederate pension fund of 7 cents. These funds are analogous to the funds provided for county purposes above mentioned, and if a constitutional fund for county purposes cannot be supplemented out of another similar fund, like reasoning would indicate that a State constitutional fund derived from property taxes cannot be supplemented out of another State fund derived from property taxes.

While the provisions of Section 51 of Article III levying a 7-cent property tax for pensions is a limitation on the amount of property tax that may be levied or used for such pensions, and would prevent State property taxes being taken from the general revenue fund and placed in the pension fund and used for pension purposes, it does not necessarily follow that other revenues in the general revenue fund not derived from property taxes cannot be transferred and used to supplement the pension fund, as proposed in the measure about which you inquire. It is well known that no more than the constitutional rate can be used of property taxes by counties for road and bridge purposes, but it is equally well known that the

Legislature has supplemented the road and bridge revenue of counties from other sources than property taxes. It is also true that in the case of *Carroll vs. Williams*, the court held that property taxes in these constitutional county funds cannot be transferred from one fund to the other, but the court indicated that other revenues of the county might be so transferred.

Therefore, this Department is inclined to the opinion that if this measure were amended so as to make these advancements to the pension fund out of revenues in the general revenue fund other than property taxes, the same would be valid. It may be admitted that there is doubt on this point, but in case of doubt the doubt should be resolved in favor of the validity of an act of the Legislature; and moreover, if the act were so written, it would give an opportunity to test the question out in the courts.

Yours very truly,

L. C. SUTTON,
Assistant Attorney General.

ADJOURNMENT.

Mr. Sherrill moved that the House adjourn until 10 o'clock a. m. tomorrow.

Mr. Finlay moved that the House adjourn until 9 o'clock a. m. tomorrow.

The motion of Mr. Sherrill prevailed, and the House accordingly, at 6 o'clock p. m., adjourned until 10 o'clock a. m. tomorrow.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following committees have today filed favorable reports on bills, as follows:

Agriculture: House bills Nos. 46 and 54.

Education: House bills Nos. 20, 57, 60, 61, 62 and 64.

Revenue and Taxation: House bills Nos. 7, 15 and 12.

Public Lands and Buildings: House bills Nos. 29, 51 and 66.

Judiciary: House bill No. 30.

State Affairs: House bills Nos. 35, 75, 58 and 76.

Public Health: House bill No. 59.

Insurance: House bill No. 56.

Common Carriers: House bill No. 72.

Highways and Motor Traffic: House bill No. 53.

The Committee on Criminal Jurisprudence filed an adverse report on House bill No. 68.